

IN RE: PETITION FOR VARIANCE  
N/S Old Frederick Road, 265' W  
of the c/l of Lee Drive  
(2006 Old Frederick Road)  
1st Election District  
1st Councilmanic District  
Ellwood Building Corp.  
Petitioner

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 93-344-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Ellwood Building Corporation, by and through its President, Ellwood A. Sinsky. The Petitioner requests relief from Section 1801.2.C.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) (Section V.B.3 of the Comprehensive Manual of Development Policies (C.M.D.P.)) to permit a distance between buildings of 20 feet in lieu of the required 25 feet for heights of 20 to 25 feet, and a distance between buildings of 20 feet in lieu of the required 30 feet for heights of 25 to 30 feet, for Lots 1 through 26, inclusive, all as more particularly described on Petitioner's Exhibit 1.

Appearing and testifying on behalf of the Petition was Ellwood A. Sinsky, property owner. Appearing as an interested party was Violet Rice, a nearby property owner. There were no Protestants.

Testimony indicated that the subject property, known as 2006 Old Frederick Road, consists of a gross area of 5.33 acres, more or less, zoned D.R. 5.5 and is currently vacant. The Petitioner proposes to develop the property with 26 single family detached dwelling units in accordance with Petitioner's Exhibit 1. Testimony indicated that the proposed development obtained CRG approval on March 22, 1990; however, no houses have been built to date. The Petitioner filed the instant Petition in order to

bring the proposed development into compliance with current development regulations. Testimony indicated the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community and meets the spirit and intent of the zoning regulations.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel.

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In addition, the granting of the relief requested will not cause any injury to the public health, safety or general welfare and is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 4<sup>th</sup> day of June, 1993 that the Petition for Variance requesting relief from Section 1801.2.C.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) (Section V.B.3 of the Comprehensive Manual of Development Policies (C.M.D.P.)) to permit a distance between buildings of 20 feet in lieu of the required 25 feet for heights of 20 to 25 feet, and a distance between buildings of 20 feet in lieu of the required 30 feet for heights of 25 to 30 feet, for Lots 1 through 26, inclusive, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) Prior to the issuance of any building permits, the Petitioner shall submit a revised site plan depicting the new building separations in accordance with the relief granted herein.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

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Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204

(410) 887-4386

June 4, 1993

Mr. Ellwood A. Sinsky  
Ellwood Building Corporation  
2416 Velvet Valley Way  
Owings Mills, Maryland 21117

RE: PETITION FOR VARIANCE  
N/S Old Frederick Road, 265' W of the c/l of Lee Drive  
(2006 Old Frederick Road)  
1st Election District - 1st Councilmanic District  
Ellwood Building Corp. - Petitioner  
Case No. 93-344-A

Dear Mr. Sinsky:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: People's Counsel

File.



## 93-344-A #353 Petition for Variance to the Zoning Commissioner of Baltimore County

for the property located at UPMAN PROPERTY (Old Frederick Road & Uman Court) which is presently zoned DRS.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1801.2.C.6(V.B.3) to permit a distance between buildings of 20 feet in lieu of 25 feet for heights of 20' to 25' and a distance between buildings of 20 feet in lieu of 30 feet for heights of 25' to 30', for all lots #1 thru #26 inclusive, of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the purpose of allowing the construction of a new building which is in the 20' to 25' height range. This variance would allow this product to be erected upon any of the 26 lots within this subdivision. The new CNDP setback and height requirements allow side building face to side building face of 20 feet on anything over 20 feet in height in this zone. This request is for no more than what the new CNDP requires.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Purchaser/Lessor:  
(Type or Print Name)  
Signature  
Address  
City State Zipcode  
Attorney for Owner:  
Ellwood A. Sinsky  
(Type or Print Name)  
Signature  
Address  
City State Zipcode  
2416 Velvet Valley Way 363-6644  
Owings Mills, Maryland 21117

Legal Owner(s):  
ELLWOOD BUILDING CORPORATION  
(Type or Print Name)  
Signature  
Address  
City State Zipcode  
2416 Velvet Valley Way (410)363-6644  
Owings Mills, Maryland 21117

Office Use Only  
ESTIMATED LENGTH OF HEARING: 1 hr.  
The following date: Next Two Months  
ALL OTHER: ☒ REVIEWED BY: TMK DATE: 4/6/93

## ELLWOOD BUILDING CORPORATION 2416 Velvet Valley Way • Owings Mills, Maryland 21117 • (410) 363-6644

93-344-A

Upman Property  
2006 Old Frederick Road,  
First Election District,  
Baltimore County, Maryland

March 9, 1993

DESCRIPTION TO ACCOMPANY PETITION FOR ZONING VARIANCES.

BEGINNING at a point on the North side of Old Frederick Road, 50 feet wide, at a distance of 265 feet West of the centerline of Lee Drive, 50 feet wide; thence  
(1) South 75 degrees 28 minutes 20 seconds West 95.71 feet;  
(2) South 70 degrees 56 minutes 23 seconds West 82.55 feet;  
(3) North 05 degrees 58 minutes 43 seconds East 849.20 feet;  
(4) North 19 degrees 13 minutes 13 seconds East 454.40 feet;  
(5) South 70 degrees 49 minutes 17 seconds East 100.80 feet;  
(6) South 05 degrees 01 minutes 52 seconds West 1028.92 feet;  
(7) North 36 degrees 21 minutes 17 seconds West 80.00 feet and  
(8) South 02 degrees 55 minutes 17 seconds East 169.74 feet to the point of beginning, containing 228,577 square feet or 5.25 acres more or less.

BEING that lot of ground which by Deed dated January 8, 1990 and recorded among the Land Records of Baltimore County in Liber S.M. 8391, Folio 180 was granted and conveyed by John P. Stahle to Ellwood Building Corporation. Also known as No. 2006 Old Frederick Road and located in the First Election District.

#353

## CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 1st Date of Posting: 5/11/93  
Posted for: Variance  
Petitioner: Ellwood Building Corporation  
Location of property: N/S Old Frederick Rd, 265' W of Lee Drive  
Location of Sign: Along roadway at Upman property  
Remarks:  
Posted by: TMK/bjs Date of return: 5/14/93  
Number of Signs: 1

## CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/22, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/22, 1993

THE JEFFERSONIAN,

S. Zake Orlov  
Publisher

Baltimore County  
Zoning Administration &  
Development Management  
111 First Chesapeake Avenue  
Towson, Maryland 21204

receipt

Date: 4/2/93

93-344-A

Account: R-001-6150

Number

Item # 353

Petition for Zoning Variance - \$ 250.00  
Sign Posting - \$ 35.00  
Total - \$ 285.00

Owner: Ellwood Building Corp  
Upman Property (Old Frederick - Upman Road)

Please Make Checks Payable To: Baltimore County

Cashier Validation







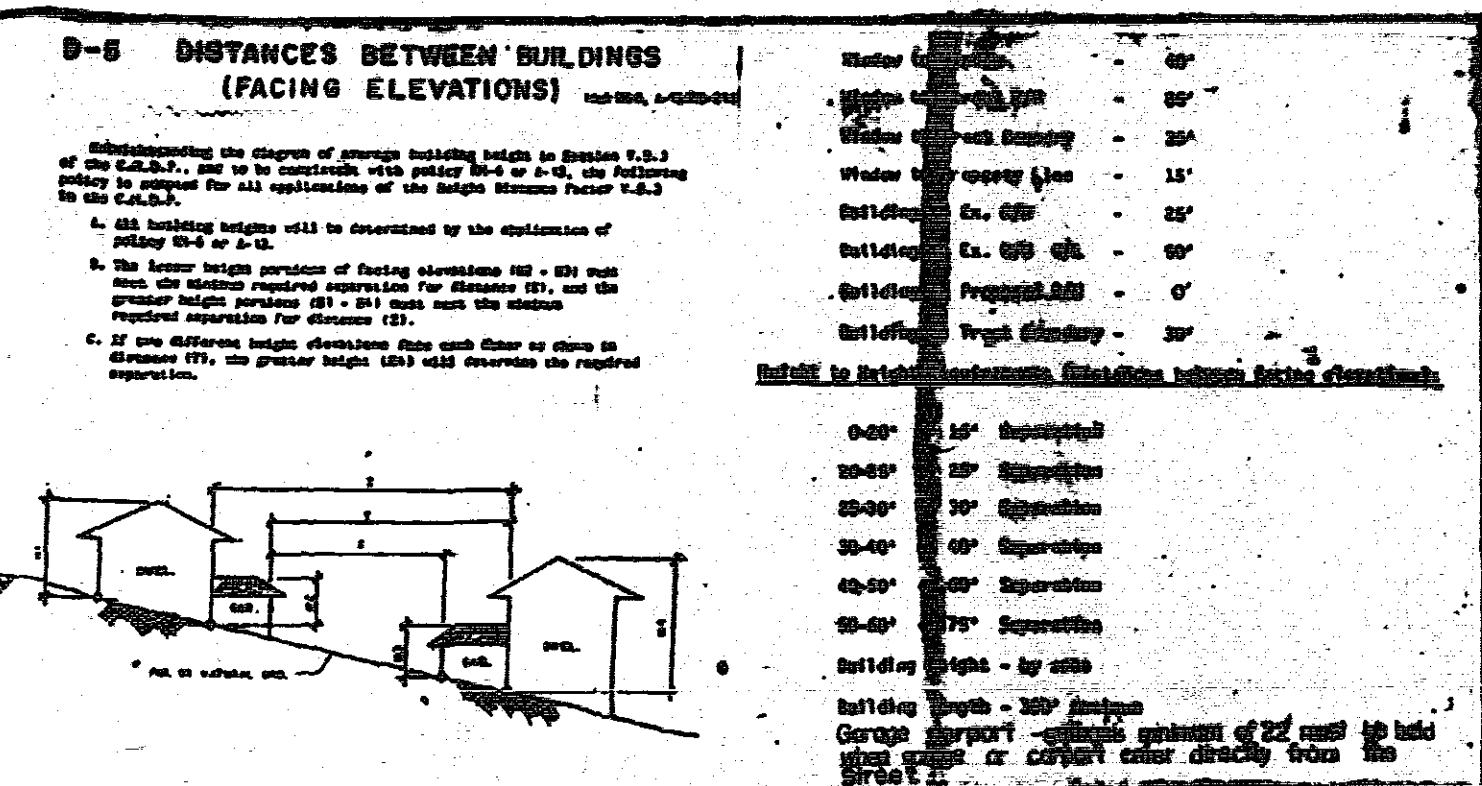
SOIL TYPES & LIMITATIONS (BALTO CO. SOIL SURVEY MAP NO. 43)			
SOIL TYPE	SOIL TYPE	HYDRA	STREET
C1D	CLAY-URBAN	SLIGHT TO MODERATE SLOPE	SEVERE SLOPE
C1B	CLAY-URBAN	SLIGHT	MODERATE SLOPE
A1A	ALFALFA SLOPE	MODERATE SLOPE	MODERATE SLOPE
A1B	ALFALFA SLOPE	SLIGHT	MODERATE SLOPE
M1B2	MONTANA SLOPE	SLIGHT	MODERATE SLOPE
M1C2	MONTANA SLOPE	MODERATE SLOPE	SEVERE SLOPE
W1B	WATCHDOG SLOPE	SEVERE SLOPE	SEVERE SLOPE

**RECOMMENDED MODERATE AND SEVERE SOIL CONDITIONS**

1. SINGLE FAMILY DWELLINGS WITH BASEMENTS AND STREETS

A GRADING STUDY WILL BE ADHERED TO IN CONSTRUCTION OF ROADS AND HOUSES. SLOPES WILL BE GRADED TO NON-ERODIBLE GRADES AND ADEQUATELY STABILIZED PER GRADING AND SEPTIC CONTROL PLAN.

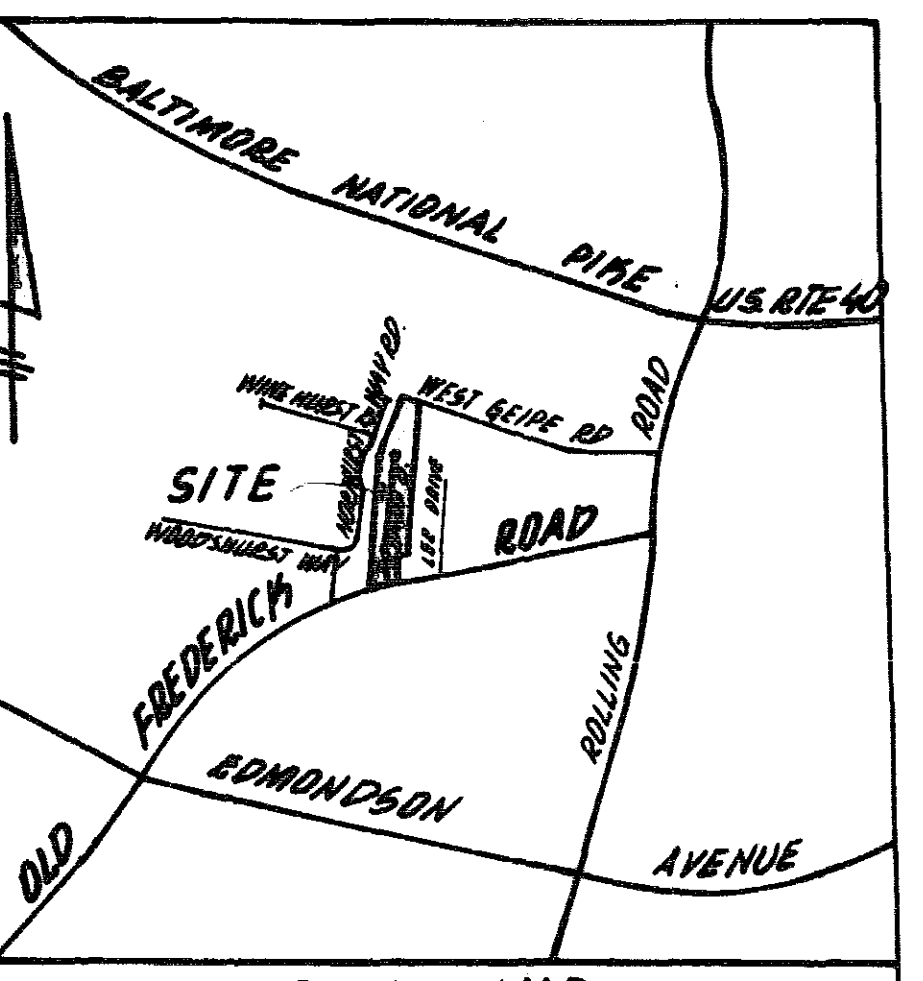
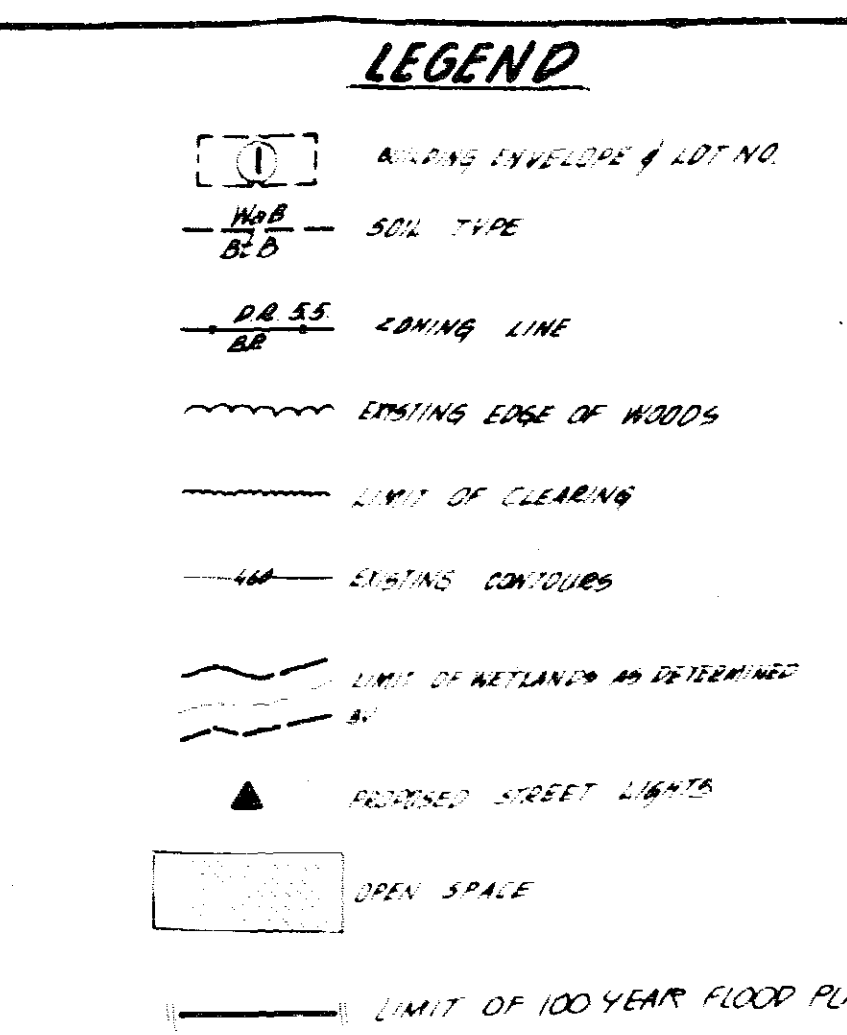
2. HIGH GROUND WATER TABLE CONDITIONS ENCOUNTERED DURING CONSTRUCTION OF BASEMENTS AND STREETS WILL BE ADDRESSED WITH UNDERDRAIN SYSTEMS.



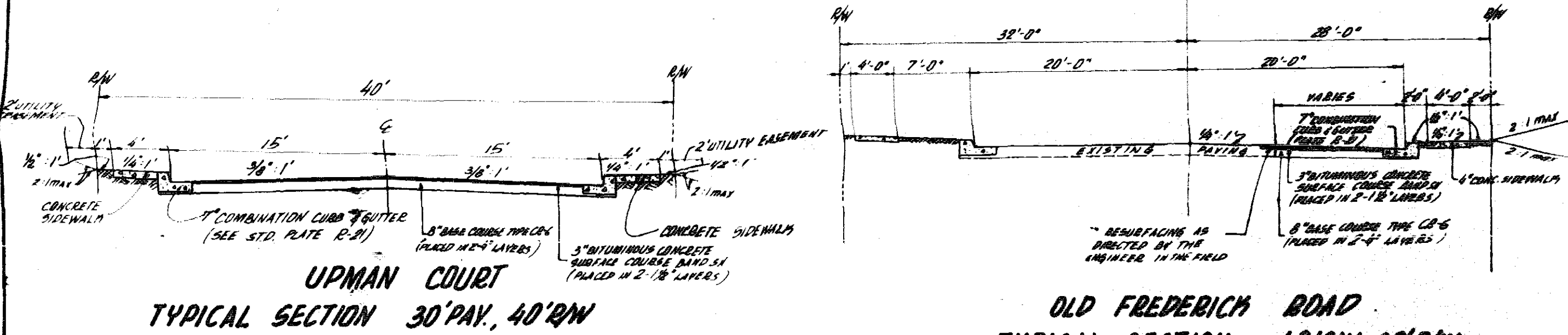
TYPICAL PARKING LAYOUT DETAIL

TYPICAL HEIGHT PROFILE

LOT NO.	AREA (AC)
LOT NO. 1	0.15
LOT NO. 2	0.15
LOT NO. 3	0.15
LOT NO. 4	0.15
LOT NO. 5	0.15
LOT NO. 6	0.15
LOT NO. 7	0.15
LOT NO. 8	0.15
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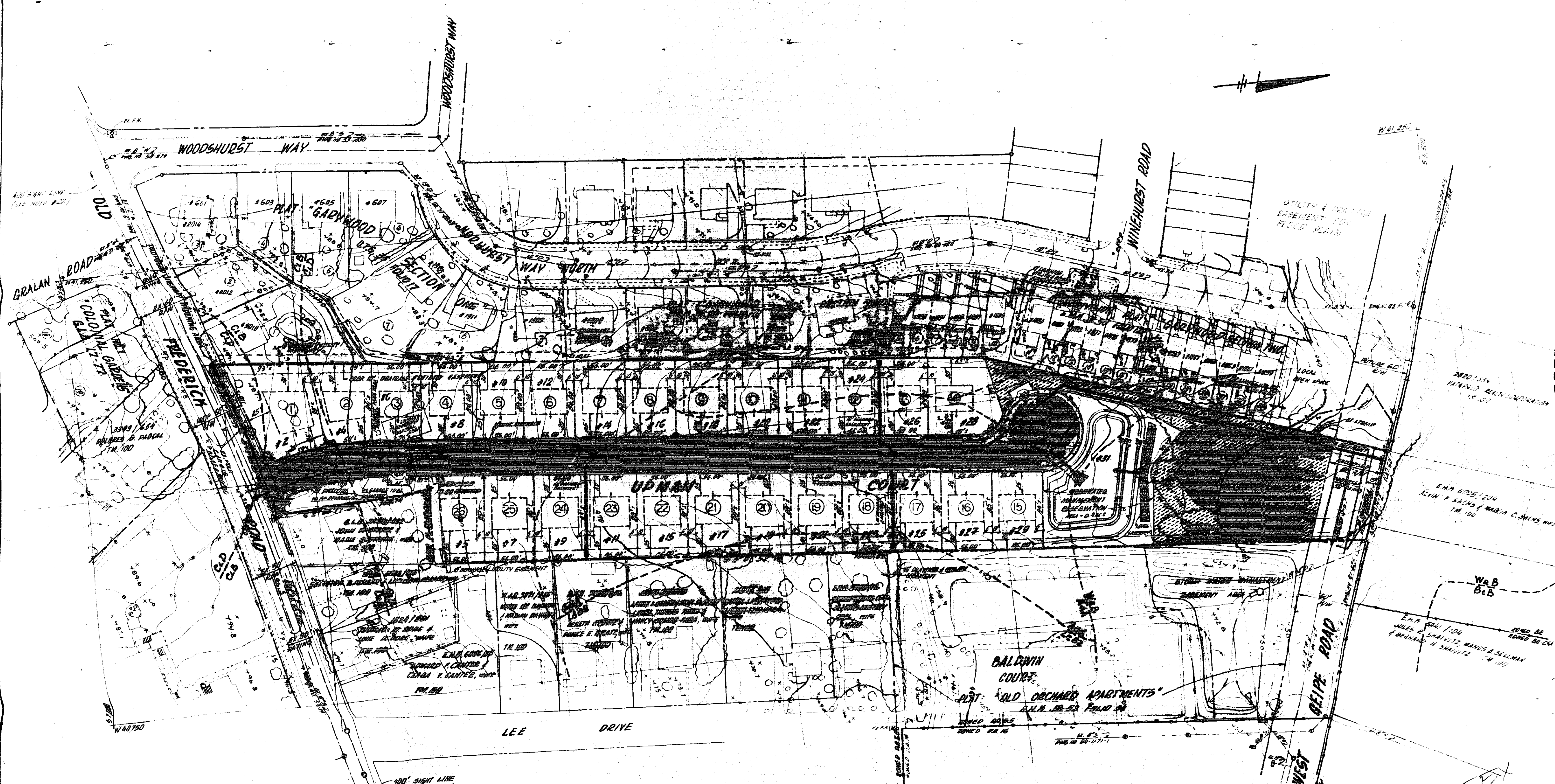


VICINITY MAP  
SCALE 1"=1000'



UPMAN COURT  
TYPICAL SECTION 30' PAV, 40' RW

OLD FREDERICK ROAD  
TYPICAL SECTION 40' PAV, 60' RW



**GENERAL NOTES**

- ELECTION DISTRICT NO. 2
- COUNCILMAN DISTRICT NO. 1
- COUNCILMAN DISTRICT NO. 2
- COUNCILMAN DISTRICT NO. 3
- COUNCILMAN DISTRICT NO. 4
- COUNCILMAN DISTRICT NO. 5
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- COUNCILMAN DISTRICT NO. 100

**REASONS FOR VARIANCE:**

TO PERMIT A DISTANCE BETWEEN BUILDINGS OF 30 FEET IN LIEU OF 35 FEET FOR HEIGHTS OF 30-35 FEET FOR 30' PAV, 40' RW PER SECTION 1301.2 C.6 (B) FOR ALL 26 LOTS #1 THRU #36 INCLUSIVE. AND TO PERMIT THE 1ST AMENDED FINAL DEVELOPMENT PLAN OF UPMAN PROPERTY.

**PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE**

**93-344-A**

OFFICE OF PLANNING AND ZONING  
APPROVED BY: \_\_\_\_\_  
DIRECTOR OF PLANNING DATE \_\_\_\_\_  
ZONING COMMISSIONER DATE \_\_\_\_\_

**FINAL DEVELOPMENT PLAN**

UPMAN PROPERTY  
1ST ELECTION DISTRICT  
BALTIMORE COUNTY, MARYLAND

DATE: 10/1/92 BY: J. L. H. NO. I-369

**KCW CONSULTANTS, INC.**  
CIVIL ENGINEERS & LAND SURVEYORS  
1777 REISTERSTOWN ROAD  
COMMERCIAL SUITE 175  
BALTIMORE, MARYLAND 21204  
TELE NO. (301) 484-0894

JOB #00235  
DESIGNED BY: AM.D.  
CHECKED BY: R.H.W.

**ZONING VARIANCE**

A Zoning Variance to permit a window to track boundary setback of 30 feet in lieu of the required 35 feet for Lots 1 through 36, and a building to track boundary setback of 10 feet in lieu of the required 30 feet for Lot 36 was granted on May 21, 1992, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- Prior to the issuance of any permits, Petitioner shall submit a landscaping plan for approval by the Deputy Director of Planning. A copy of the approved plan shall be submitted to the Zoning Commission's Office for inclusion in the case file.
- Prior to the issuance of any occupancy permits for the subject dwellings, Petitioner shall have completed to the extent possible, as determined by the Deputy Director of Planning, the required landscaping, including, but not limited to, around the storm water management area and the end of the cul-de-sac.
- Petitioner shall maintain all storm water management facilities in good working order and make a copy of the maintenance record available to the Zoning Commission's Office.

**OWNER/DEVELOPER**  
ELLMWOOD BUILDING COOPERATION  
ATTENTION: ELLMWOOD SHSAY  
2416 VELVET VALLEY WAY  
OWINGS MILLS, MARYLAND 21117  
PHONE: (301) 363-6644  
DEED REFERENCE: 301-8801, 82  
TAX ACCOUNT NO. 10-21-837000